

**AGENDA FOR  
THE NINETEENTH (EXTRAORDINARY) SESSION OF THE ASSEMBLY OF THE  
INTERNATIONAL MOBILE SATELLITE ORGANIZATION**

Agenda  
Item

Subject

- Opening of the Session
  - 1 Election of the Chairman and Vice-Chairmen
  - 2 Adoption of the Agenda
  - 3 Appointment of the Credentials Committee and Consideration of its Report
  - 4 Relationship with other International Organizations
    - 4.1 Agreement of Cooperation with the International Hydrographic Organization (IHO)
    - 4.2 Relations with the European Commission and CIRM
  - 5 Global Maritime Distress and Safety System (GMDSS):
    - 5.1 Outcome of IMO MSC 82
    - 5.2 Reference Public Services Agreement (PSA)
    - 5.3 Public Services Agreement with Inmarsat
  - 6 Long Range Identification and Tracking of Ships (LRIT)
    - 6.1 Outcome of IMO MSC 82
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  - 7 Provisional Application of the Amendments to the IMSO Convention adopted at the Eighteenth Session of the Assembly
  - 8 Adoption of the Record of Decisions of the Nineteenth (Extraordinary) Session of the Assembly
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**LIST OF DOCUMENTS**

- ASSEMBLY/19/1 Election of the Chairman and Vice-Chairmen of the Assembly
- ASSEMBLY/19/2 Provisional Agenda for the Nineteenth (Extraordinary) Session of the Assembly of the International Mobile Satellite Organization
- ASSEMBLY/19/3 Appointment of the Credentials Committee
- ASSEMBLY/19/3.1 Report of the Credentials Committee
- ASSEMBLY/19/4 Relationship with other International Organizations: Agreement of Cooperation with the International Hydrographic Organization (IHO) and Relations with the European Commission and CIRM
- ASSEMBLY/19/4.1 Relationship with other International Organizations: Agreement of Cooperation with CIRM
- ASSEMBLY/19/7 Provisional Application of the Amendments to the IMSO Convention

**INFORMATION DOCUMENTS**

- ASSEMBLY/19/INF/1 Provisional List of Documents
- ASSEMBLY/19/INF/2 Provisional List of Participants
- ASSEMBLY/19/INF/3 Extracts from MSC 82 Report
- ASSEMBLY/19/INF/4 Text of IMO Resolutions  
Resolution MSC.202(81) (adopted on 19 May 2006)  
Adoption of Amendments to the International Convention for the Safety of Life at Sea, 1974, as Amended  
Resolution MSC.210(81) (adopted on 19 May 2006)  
Performance Standards and Functional Requirements for the Long-Range Identification and Tracking of Ships  
Resolution MSC.211(81) (adopted on 19 May 2006)  
Arrangements for the Timely Establishment of the Long-Range Identification and Tracking of Ships
- ASSEMBLY/19/INF/5 Revision of IMO Resolution A.888(21)  
Report of the IMO COMSAR Drafting Group
- ASSEMBLY/19/INF/6 Text of the draft Reference Public Services Agreement amended to take account of Resolution A.888
- ASSEMBLY/19/INF/7 LRIT Implementation Plan

**LIST OF PARTICIPANTS**

<b>ALGERIA</b>	M Mohamed-Said Semane Attaché des Affaires Maritimes Ambassade d'Algérie, Londres	Representative
<b>ARGENTINA</b>	Ing Carlos Chhab Secretaria de Comunicaciones	Representative
	Dr Gustavo Javier Fernandez Comision Nacional de Comunicaciones	Alternate
	Capitan Eduardo Polemann	Alternate
	Secretario Santiago Villalba Embassy of the Argentine Embassy	Alternate
<b>BAHAMAS</b>	Ms Judith Francis Maritime Attaché/Alternate Permanent Representative of the Bahamas to IMO High Commission for the Commonwealth of the Bahamas, London	Representative
<b>BANGLADESH</b>	Mr M. Forhadul Islam Counsellor Bangladesh High Commission, London	Representative
<b>BELGIUM</b>	Mrs Marielle Ver Elst Minister Plenipotentiary Head of the Directorate of Science Policy and Space Affairs Federal Public Service, Foreign Affairs Foreign Trade and Development Cooperation	Representative
<b>CANADA</b>	Mr Santiago Reyes-Borda Senior Policy Advisor International Telecommunications Policy & Coordination Industry Canada	Representative

	Mr Sam Ryan Project Manager, Navigation Systems Department of Fisheries and Oceans	
<b>CHILE</b>	Captain Carlos Salgado Alternate Permanent Representative of Chile to IMO	Representative
	Captain Zvonimir Yuras Alternate Permanent Representative of Chile to IMO	Alternate
	Ms Veronica Rocha Second Secretary Embassy of Chile, London	Alternate
<b>CHINA</b>	Mme Tang Guomei	Representative
	Mr Song Zhen	Alternate
	Mr Xie Hui	Adviser
	Mme Kang Hongxia	Adviser
	Mr Gao Wanming	Adviser
<b>COLOMBIA</b>	Mr Joaquin Restrepo Ministry of Communications	Representative
<b>CROATIA</b>	Mr Mladen Cvrlje	Representative
<b>CUBA</b>	Mr Jesús González Counsellor, Economic Affairs Embassy of Cuba, London	Representative
	Ms Mercedes Menéndez Economic Attaché Embassy of Cuba, London	Alternate
<b>CYPRUS</b>	Mr. Andreas Chrysostomou Marine Surveyor A Department of Merchant Shipping, Cyprus	Representative

	Mr. George Demetriades Alternate Permanent Representative of the Republic of Cyprus to IMO, Counsellor (Maritime Affairs) Head of Maritime Section Cyprus High Commission, London	Alternate
	Ms Despina Lada	Alternate
<b>CZECH REPUBLIC</b>	Mr Petr Ondracek Ministry of Informatics	Representative
	Mr Jiri Tolfi	Alternate
<b>DENMARK</b>	Mr Hans Aage Nielsen Special Adviser Danish Maritime Authority	Representative
<b>FINLAND</b>	Mr Carolus Ramsay Maritime Inspector Maritime Safety Department Finnish Maritime Administration	Representative
<b>FRANCE</b>	Amiral Gérard Gasc Représentant permanent de la France à l'Organisation Maritime Internationale Conseiller maritime Ambassade de France, Londres	
	Mr Michel Babkine Chef de l'organisme d'étude et de Coordination pour la recherche et le Sauvetage en mer (SECMAR)	Alternate
<b>GERMANY</b>	Mr Hans-Joachim Schemel Senior Executive Officer International Policy of Telecommunications and Posts Federal Ministry of Economics and Labour	Representative

	Mr Hans-Heinrich Callsen-Bracker Federal Ministry of Transport, Building and Urban Affairs	Alternate
<b>GREECE</b>	Mr E. Liberopoulos Maritime Attaché Embassy of Greece, London	Representative
<b>HUNGARY</b>	Mr Ferenc Viragh Counsellor for Economic Affairs Hungarian Embassy, London	Representative
<b>INDONESIA</b>	Mr Dewa Made Sastrawan Minister Counsellor Embassy of the Republic of the Republic of Indonesia	Representative
	Mr Mayuzar Adamy First Secretary Embassy of the Republic of the Republic of Indonesia	Alternate
<b>ITALY</b>	Rear Admiral Giancarlo Olimbo Maritime Attaché Italian Embassy, London	Representative
	Cdr Cosma Scaramella Italian Coast Guard	Alternate
<b>JAPAN</b>	Mr Shuji Yamaguchi First Secretary, Embassy of Japan	Representative
	Ms Kazuko Maruyama Assistant Director, International Organizations Office Ministry of Internal Affairs and Communications	Alternate
	Mr Yoshiyuki Kato International Science Cooperation Division Ministry of Foreign Affairs	Alternate

<b>KENYA</b>	Mr Kiboi Waituru Second Secretary Kenya High Commission, London	Representative
<b>LATVIA</b>	Captain Aigars Krastiņš Director Maritime Department Ministry of Transport	Representative
<b>LIBERIA</b>	Captain Armett E. Hill Deputy Permanent Representative of Liberia to IMO  Ms Armena V. Richards IMO Coordinator Liberian Permanent Mission to IMO	Representative
<b>MALAYSIA</b>	Mr Raja Malik Saripulazan Maritime Attache High Commission of Malaysia	Representative
<b>MALTA</b>	Mr Lino C. Vassallo Executive Director Merchant Shipping and Permanent Representative to IMO Malta Maritime Authority  Mr Lawrence Sciberras Flag and Port State Control Inspector Malta Maritime Authority  Ms A.M. Sciberras Counsellor, Maritime Affairs Merchant Shipping Directorate Malta High Commission, London	Representative  Alternate  Adviser
<b>MARSHALL ISLANDS</b>	Captain David J.F. Bruce Senior Deputy Commissioner for Maritime Affairs	Representative
<b>MAURITIUS</b>	Mr Rakesh Bhye Bhuckory	Representative

<b>MEXICO</b>	Mr Héctor M. Rodríguez Arellano Alternate Permanent Representative of Mexico to IMO Embassy of Mexico, London	Representative
	Mr Luis Muriel del Castillo Counsellor for Communications and Transport Embassy of Mexico, London	Alternate
<b>MONACO</b>	Monsieur Jean-Louis Bissuel Directeur des Affaires Maritimes	Representative
<b>MOROCCO</b>	Mr Mohammed Said Oualid Minister Plenipotentiary Embassy of the Kingdom of Morocco London	Representative
<b>THE NETHERLANDS</b>	Mr Michal Pistecky First Secretary Embassy of the Kingdom of the Netherlands London	Representative
<b>NIGERIA</b>	Mr William Azuh Permanent Representative of Nigeria to IMO	Representative
<b>NORWAY</b>	Mrs Thorunn Kathrine Bakke Senior Adviser Ministry of Transport and Communications	Representative
<b>OMAN</b>	H. H. Sayyed Qais Al-Said Counsellor Embassy of the Sultanate of Oman	Representative
<b>PANAMA</b>	H.E. Mrs Liliana Fernandez Ambassador of Panama and Permanent Representative of Panama to IMO	Representative
	Ms Nimia Herrera Permanent Mission of Panama to IMO	Alternate



<b>PERU</b>	Rear Admiral Oscar Penny Cabrera Naval Attaché Embassy of Peru	Representative
	Ms Elfy Rojas Second Secretary Embassy of Peru, London	Alternate
<b>PHILIPPINES</b>	H. E. Edgardo B. Espiritu Ambassador and Permanent Representative to IMO	Representative
	Mr Reynaldo A. Catapang Deputy Chief of Mission and Deputy Permanent Representative to IMO	Alternate
	Mr Neil Frank R. Ferrer First Secretary and Consul and Alternate Permanent Representative to IMO	Alternate
<b>POLAND</b>	Mr Andrzej Kossowski Counsellor - Permanent Representative of the Republic of Poland to the IMO Embassy of Poland	Representative
	Mr Andrzej Królikowski Maritime Office, Gdynia	Alternate
	Mr Marek Chmielewski Ministry of Maritime Economy	Alternate
	Mr Jakub T. Wolski Ministry of Foreign Affairs	Adviser
	Mr Tadeusz Wojtasik Maritime Office, Szczecin	Adviser
	Mr Dariusz Sapkowski Maritime Office, Slupsk	Adviser
	Mr Karol Korcz Gdynia Maritime University	Adviser

<b>PORTUGAL</b>	Ms Cristina Lourenço External Affairs Department ANACOM	Representative
	Ms Teresa Martins de Oliveira	Alternate
	Ms Joana Santos	Alternate
<b>ROMANIA</b>	Mr Constantin Matache Minister-Counsellor Embassy of Romania	Representative
<b>RUSSIAN FEDERATION</b>	Mr Valery Bodganov Director General Morsviazsputnik	Representative
	Ms Nadya Nesterenko Director of International Accounts and Intercarrier Relations Department Morsviazsputnik	Adviser
<b>SENEGAL</b>	Mr Dame Gaye Head of Ministerial Cabinet Ministry for Post, Telecommunications and New Technologies of Information and Communication	Representative
	Mr Francois Dasyva Director for Telecom Studies Planning and legislation Ministry for Post, Telecommunications and New Technologies of Information and Communication	Alternate
	Mr Makhtar Fall Director for Studies and International Cooperation National Agency for Telecom Regulation	Adviser
	Mrs Isidora Mara Niang Second Counsellor Embassy of Senegal, London	Adviser

<b>SLOVAK REPUBLIC</b>	Mr Radovan Javorčík Chargé d’Affaires Embassy of the Slovak Republic, London	Representative
	Ms Eva Sumbalová Ministry of Transport, Posts and Telecommunications	Alternate
	Mr Rastislav Kostilnik Second Secretary Embassy of the Slovak Republic, London	Alternate
<b>SOUTH AFRICA</b>	Mr Elliot Sibeko Representative Director, Space Applications and Satellite Communications	Representative
	Ms Lipuo Mothae Assistant Director, Innovative Applications and Research	Alternate
<b>SPAIN</b>	D Esteban Pacha-Vicente Consejero de Transportes Embajada de España, Londres	Representative
	D Manuel Nogueira Romero Agregado de Asuntos Marítimos Embajada de España, Londres	Alternate
	D Juan Antonio Alonso Bernal Jefe del Área de Proyectos y Comunicaciones Marítimos Ministerio de Fomento	Alternate
	Ms Andrea García Transport Office Embassy of Spain, London	Adviser
<b>SWEDEN</b>	Ms Marina Angsell Legal Adviser Swedish Maritime Administration	Representative

<b>SWITZERLAND</b>	Ms Viviane Arni Department of the Environment, Transport, Energy and Communications Federal Office of Communications	Representative
<b>THAILAND</b>	Mrs Patima Arphasilp Policy and Planning Analyst Ministry of Information and Communication Technology	Representative
<b>TURKEY</b>	Captain Bekir Sitki Ustaoglu Alternate Permanent Representative of Turkey to IMO	Representative
	Dr Özkan Poyraz Under Secretariat for Maritime Affairs	Alternate
	Captain Mehmet Örgen Turkish Navy	Alternate
	Commander Nuri Çimenoglu Turkish Navy	Alternate
	Lt. (N) Y. Uğur Kocabaş Turkish Coastguard	Alternate
<b>UKRAINE</b>	Mr Olexii Stepanov	Representative
	Mr Pavlo Chorny	Alternate
<b>UNITED KINGDOM</b>	Mr Gary R. Hunt Policy Advisor Department of Trade and Industry	Representative
	Mr Mike Hunter Marine and Coastguard Agency	Adviser
	Mr Simon Cockburn Marine and Coastguard Agency	Adviser
<b>UNITED STATES OF AMERICA</b>	Mr Jeffrey Lantz US Coast Guard	Representative

	Mr G. Alex Weller Attorney Advisor Office of Maritime and International Law US Coast Guard	Adviser
	Mr Larry Solomon Spectrum Management Counsel US Coast Guard	Adviser
	Ms Diane Steinour Telecom Policy Specialist National Telecommunications and Information Administration Department of Commerce	Adviser
<b>VENEZUELA</b>	Mr Guillermo Rangel Permanent Representative of Venezuela To IMO	Representative
<b>VIETNAM</b>	Mr Hoai Anh Nguyen	Representative

**OBSERVERS****CIRM**

Mr Michael Rambaut  
Secretary-General

Ms Frances Baskerville  
Deputy Secretary-General

Mr Chris Snowdon  
Iridium

**European Commission**

Mr Martin Koopmans

**International Maritime Organization**

Mr Koji Sekimizu  
Director, Maritime Safety Division

Mr H. Hesse  
Senior Deputy Director  
Sub-Division for Operational Safety and  
Human Element

**Inmarsat Group  
Holdings Limited**

Mr G. Singhota  
Head, Operational Safety Section

Ms Alison Horrocks  
Company Secretary

Mr Nick Rowe  
General Counsel

Mr Brian Mullan  
General Manager, Maritime Safety Services

**SECRETARIAT**

Mr Jerzy W. Vonau  
Director

Mr Andy Fuller  
Head of Technical Services

Ms Jenny Ray  
Head of Administrative Services

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**AGREEMENT OF COOPERATION BETWEEN  
THE INTERNATIONAL MOBILE SATELLITE ORGANIZATION (IMSO) AND  
THE COMITE INTERNATIONAL RADIO-MARITIME (CIRM)**

This document constitutes a Memorandum of Understanding between the International Mobile Satellite Organization (IMSO) and the Comité International Radio-Maritime (CIRM)

IMSO and CIRM each recognize that the other is an international organization with many complementary activities serving the broadest interests of safety of life at sea, safe navigation and the promotion of safe and efficient maritime transport.

IMSO is the intergovernmental organization, established by its Convention, with 88 Member States responsible, *inter alia*, for overseeing the public interests in the provision of maritime mobile satellite services for the Global Maritime Distress and Safety System (GMDSS). IMSO therefore has an essential interest in the provision of all satellite-based communication services affecting the safety of life and property at sea.

CIRM is the international non-governmental organization which exists to promote the application of electronic technology to the safety of life and efficient conduct of vessels at sea; and to foster relations between all organisations concerned with electronic aids to marine navigation, communications and information systems. CIRM represents the interests of the marine electronics industry, world wide, including many manufacturers of maritime satellite equipment.

IMSO and CIRM,

A     **HAVING REGARD** to Article 8(c) of the Convention on the International Mobile Satellite Organization;

B     **RECOGNIZING** the purview of both Organizations in the fields of maritime communications, maritime safety and efficiency of navigation;

C     **DESIRING** to facilitate the attainment of their respective objectives in these fields through the maximum possible co-ordination of their efforts

**HAVE AGREED AS FOLLOWS:**

- 1 IMSO and CIRM agree to establish and maintain cooperation relative to matters of common interest to both Organizations.
- 2 IMSO and CIRM agree to exchange information and documentation and to keep each other fully informed of their activities and programmes of work in the field of maritime communications for maritime safety and efficiency of navigation, subject always to such arrangements as may be necessary for safeguarding or withholding of information of a confidential nature.
- 3 With a view to facilitating attainment of their respective objectives as set forth in their constituent instruments, IMSO and CIRM agree to establish and maintain regular consultation in regard to matters of common interest in the field of maritime communications for maritime safety and efficiency of navigation.

Accordingly, when either Organization proposes to initiate a programme or activity on a subject in which the other Organization has or may have substantial interest, it should consult the latter Organization taking into account the respective objectives of both Organizations.
- 4 CIRM may propose matters for consideration by the organs of IMSO. Such proposals will be submitted by the Secretary-General to the Director of IMSO for appropriate action. Similarly, IMSO may propose subjects for consideration by the organs of CIRM. Such suggestions will be submitted by the Director to the Secretary-General for appropriate action.
- 5
  - (i) CIRM may be invited to be represented in meetings of IMSO organs or their subsidiary bodies or conferences convened by IMSO. Such participation shall be in accordance with the applicable Rules of Procedure.
  - (ii) IMSO may be invited to be represented in meetings of CIRM organs or their subsidiary bodies or conferences convened by CIRM. Such participation shall be in accordance with the applicable Rules of Procedure.
- 6 It is understood that neither organisation can commit the other to any expenditure, save that from administering this Agreement, without the specific written consent of both organisations.
- 7 This Agreement may be revised by agreement between IMSO and CIRM.



- 8 IMSO and CIRM may at any time denounce this Agreement by giving six months' prior written notice to the other Party.
- 9 This Agreement shall enter into force upon signature on behalf of IMSO and CIRM.

**DONE** at London this sixth day of March 2007.

Signature

Signature

Jerzy W. Vonau  
Director  
For the International Mobile  
Satellite Organization (IMSO)

Michael Rambaut  
Secretary-General  
For the Comité International  
Radio-Maritime (CIRM)

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**STATEMENT BY THE REPRESENTATIVE OF THE PARTY OF CANADA**

Canada has consistently supported all efforts conducive to an effective and timely implementation of the Long Range Identification and Tracking of Ships program (LRIT), and fully supports the augmentation of the Global Maritime Distress and Safety system (GMDSS) through the introduction of new satellite service providers.

Canada concurs with the decision of the MSC/82 to appoint IMSO as the LRIT coordinator. However, consistent with the position it expressed at the Eighteenth Session of the Assembly, Canada continues to believe that a comprehensive set of further amendments need to be considered, adopted and subjected to procedures for their entry into force, in order to provide IMSO with the appropriate legal framework to allow it to take on the duties associated with the LRIT coordination.

Furthermore, Canada believes that precise information is required on the start-up costs, financing, and accounting controls associated with any new activities.

Canada will continue to work thoroughly with other Parties so that a proper and comprehensive set of additional amendments are considered and adopted, but is unable at this time to support the provisional application of the current amendments.

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**STATEMENT BY THE REPRESENTATIVE OF THE PARTY OF COLOMBIA**

The Colombian delegation ratifies its comments made during the Eighteenth Session of the Assembly about the importance of implementing the LRIT as well as opening up the IMSO Convention to enable GMDSS to be provided by other satellite providers on conditions equivalent to those imposed by the PSA on Inmarsat.

However, we ratify our concern about this new role of the IMSO as LRIT Co-ordinator and in this connection we repeat our call for the necessary changes and amendments to the Convention to fulfil this new role to be carried out in accordance with all the proper legal and financial considerations and for that reason the delegation expresses its concern on these two points:

1. On the legal side, we repeat our concerns about the procedures followed including the provisional entry into force of amendments to this Convention since it considers that these procedures have not been strictly subjected to the mechanisms stipulated in the Convention for the implementation of amendments to it as required by such a sensitive matter.

For this reason it ratifies its abstention to the proposed provisional entry into force since this is not explicitly included in the Convention as indicated in paragraph (a) of clause 1 of article 25 of the Vienna Convention, the instrument mentioned here precisely for that purpose; the delegation further states that our law clearly establishes a procedure for the entry into force of amendments to international treaties, which cannot be implemented without the correct internal procedures being followed.

2. As regards financial matters, we agree with what was stated by other delegations concerning the need to define much more clearly the procedure to be followed by IMSO for this new role as well as the additional amendments required to the IMSO Convention for such procedures. This detailed definition must include a much more specific description about the alternatives for financing this new role, the delegation confirming that no payment should be required from the Parties as agreed in the relevant amendment and also enquires whether the intention is that we Administrations should, directly or indirectly, be guarantors of any loans for such financing.

**STATEMENT BY THE REPRESENTATIVE OF THE PARTY OF MALAYSIA**

Malaysia is considering the acceptance of the amendments adopted during the Eighteenth Session of the IMSO Assembly. The procedures associated with this consideration shall be within the limits of its national laws and domestic requirements. On this note Malaysia abstain from the provisional application of the amendments presented at the Nineteenth (Extraordinary) Session of the IMSO Assembly.

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**STATEMENT BY THE REPRESENTATIVE OF THE PARTY OF MEXICO**

The Delegation of Mexico congratulates the Assembly on the approval at its Nineteenth (Extraordinary) Session, of the mechanism for the provisional application of the Amendments to the Convention, adopted at the Eighteenth Session of the Assembly. Nevertheless, the international practice of the Government of Mexico does not contemplate the provisional application of Conventions or amendments, unless previously submitted to its internal legislative procedures which require consultations between different levels of government before being sent to the Senate for approval.”

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**STATEMENT BY THE REPRESENTATIVE OF THE PARTY OF PORTUGAL**

Portugal fully supports the principles embedded in the amendments adopted at the 18<sup>th</sup> IMSO Assembly, i.e., the expansion of GMDSS to new service providers and the development of the LRIT system, in accordance with IMO decisions.

However, in compliance with Constitutional Law, Portugal cannot be bound by International Conventions or amendments to International Conventions that have not entered into force. Therefore, the Portuguese Party cannot associate with a decision of the IMSO Assembly on provisional application of amendments.

In this context, this Party hereby declares that Portugal will not be considered as participating in the provisional application of the amendments and will not be bound by any consequential obligations of such application.

Portugal, within the limits allowed by its national constitution, laws and regulations, will do its utmost to support the development of LRIT within the ambitious timing defined by IMO and, in particular, to expedite the national ratification process that will allow it to be bound by the amendments.

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**STATEMENT BY THE REPRESENTATIVE OF THE PARTY OF  
THE RUSSIAN FEDERATION**

With respect to the provisional application of amendments to the IMSO Convention, the delegation of the Russian Federation considers that amendments should only apply in accordance with the provisions of the IMSO Convention itself, which in turn can only be amended by Member Governments through the procedure of explicit approval of the amendments by a two-thirds majority of the Member Governments.

The delegation of the Russian Federation accordingly abstains from taking a decision regarding provisional application of amendments to the IMSO Convention.

At the same time, Russia strongly supports LRIT and will not oppose its timely implementation.

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**STATEMENT BY THE REPRESENTATIVE OF THE PARTY OF SWITZERLAND**

The Party of Switzerland supports the improvement of safety of life at sea which could result from an increase in the number of GMDSS service providers.

Switzerland also supports the LRIT system and is aware of the ambitious deadline decided upon for its implementation.

However, Switzerland is at this stage opposed to the provisional application of the amendments to the IMSO Convention adopted at the Eighteenth Session of the Assembly in September 2006. While not against the principle of provisional application, Switzerland believes that recourse to this legal instrument is only justified in exceptional circumstances because it constitutes a departure from the normal rules for the entry into force of amendments to the Convention set forth in Article 18(2) of the Convention and, as it is proposed, from the general principles of the law of treaties.

At this stage, the various determining factors, both for IMSO and LRIT, should be subject to further analysis and decisions within the competent authorities. Furthermore, the designation of the IMSO as LRIT coordinator by the IMO MSC at its eighty-second session at the end of 2006 in our opinion requires the adaptation of a certain number of provisions in the IMSO Convention.

Recourse to the provisional application mechanism is therefore not justified as far as Switzerland is concerned. It is in any event premature until the details and consequences of the new obligations on the IMSO in carrying out its new tasks are known in their entirety. In view of this state of affairs, Switzerland maintains that the entry into force of the amendments adopted at the Eighteenth Session of the Assembly should be performed in conformity with Article 18 (2) of the IMSO Convention i.e. 120 days after the receipt by the trustee of notifications of acceptance of the amendments by two-thirds of States which were Parties to the Convention at the date of adoption of the amendments. Switzerland will therefore not feel bound by any commitment entered into by the IMSO within the framework of the provisional application of these amendments.



**STATEMENT BY THE REPRESENTATIVE OF THE PARTY OF  
THE UNITED STATES OF AMERICA**

The United States is and has always been supportive of LRIT as well as new providers in the GMDSS. In this connection, however, the United States retains its reservation regarding the IMO's designation of IMSO as the LRIT coordinator. However, because this designation has for now been made, the United States believes it is legally necessary to have a complete set of substantive amendments to the IMSO Convention that allows the organization to advance toward the potential role of LRIT Coordinator. In our view, the one-sentence amendment that has been proposed for the IMSO Convention is substantively deficient, and the manner in which the IMSO Assembly agreed to provisionally apply the amendment is legally questionable and procedurally flawed.

The United States has never supported the language of the one-sentence amendment. It simply does not comprehensively address the problems confronting IMSO in taking on the role of LRIT Coordinator. It does not provide for essential elements of governance, it provides no accounting between IMSO's role as GMDSS overseer and LRIT Coordinator, and, most importantly, it says nothing in respect of how and from what entities IMSO will obtain funding to perform the LRIT Coordinator role.

For these reasons, the United States proposed a comprehensive set of additional amendments that addresses all of those subjects. The Nineteenth (Extraordinary) Session Assembly decided not to take up those amendments at this session and as a result the members of the Assembly never even had an opportunity to consider them.

Nevertheless, the United States will continue to pursue the amendments we proposed because we believe it is essential that IMSO's authority to engage in the role of LRIT Coordinator is clear, unambiguous, and comprehensively addressed in the IMSO Convention.

Not only do we voice these substantive concerns with the amendment, but we question the propriety and the legality of the manner in which this amendment is being implemented. Neither the IMSO Convention nor the Rules of Procedure of the IMSO Assembly provide for "provisional application" of amendments. Consequently, the issue of "provisional application" must be answered by reference to general rules of international law and the prior practice of the Parties.

Specifically, Article 25(1)(b) of the Vienna Convention on Law of Treaties permits provisional application where “the negotiating states have in some other manner agreed.” While “provisional application” of an international agreement affects only those States that consent to it, and the United States has not consented in this case, there are compelling reasons why, in the context of IMSO, any agreement to “provisionally apply” amendments should be reached by consensus.

First, a consensus procedure would be in keeping with the prior practice of IMSO. In September 1998, the States Parties agreed by consensus to “rapidly implement” a package of amendments by which the former intergovernmental organization INMARSAT was restructured and privatized into the present structure of Inmarsat, Ltd. overseen by IMSO. No justification has been offered for deviating from that practice here, and we can see none under the circumstances.

Second, operating by consensus in this instance is essential because a decision to “provisionally apply” the amendment, as a practical matter, affects the rights and obligations of all the IMSO member States. The LRIT system is world-wide in scope, and its implementation necessarily involves all parties to the IMSO Convention. In this connection, we note the principle reflected in Article 41.1 (b) of the Vienna Convention on the Law of Treaties, which provides that “[t]wo or more parties to a multilateral treaty may conclude an agreement to modify the treaty as between themselves alone only if...the modification is not prohibited by the treaty and does not affect the enjoyment by the other Parties of their rights under the treaty or the performance of their obligations.”

The United States takes this opportunity to remind the members of this body that IMSO is acting to amend its responsibilities in response to a request from the International Maritime Organization to meet LRIT performance standards set in SOLAS. The actions taken by this body at this session must comport with international law and meet the expectations of all the IMO Member States that are a party SOLAS. As we have already noted, the United States retains its reservation regarding IMO’s designation of IMSO as the LRIT Coordinator. The actions taken at this session by this body have not resolved our concerns, but rather have heightened them. Only a properly amended IMSO can adequately serve the IMO. LRIT deadlines can be achieved, but they must be achieved with the agreement of all the parties in full accord with international law.

Accordingly, a decision to “provisionally apply” amendments to the IMSO Convention should be taken only on the basis of a true consensus of IMSO States parties. In this case, several states clearly spoke against the amendment and as a result no consensus was reached. There was no opportunity for full discussion of the amendment nor adequate consideration of the additional set of amendments proposed by the United States.

This lack of opportunity to comment and lack of willingness to discuss alternative proposals is all the more glaring and inappropriate in view of the past practice of IMSO, which was to proceed on the basis of true consensus.

Because of these concerns, we cannot support an implementing resolution, as has been suggested. The need for a resolution itself is an acknowledgment by the IMSO parties that further work needs to be done to enable IMSO to implement this significant expansion of its mandate. The United States is prepared to work with other delegations to address these issues previously noted.

We strongly believe that another Assembly of the IMSO Parties should be convened as early as possible to complete the additional work that needs to be done, including preparation and agreement to an additional set of amendments and the development of an appropriate resolution. The United States has supported, and will continue to support, implementation of LRIT on schedule and on a sound legal footing. We request that an Assembly be convened within the next three months to pursue this additional necessary work.

The United States requests that this statement expressing our legal and policy concerns be brought to the attention of any potential entities with which the IMSO intends to create contractual or financial relationships for development of the LRIT coordinator role.

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**STATEMENT BY THE REPRESENTATIVE OF THE PARTY OF INDONESIA**

Indonesia is of the view that it accepts the amendments to the IMSO Convention adopted at the Eighteenth Session of the Assembly.

Regarding the provisional application of the amendments to the IMSO Convention adopted at the Eighteenth Session of the Assembly, Indonesia would like to inform the Assembly that such approval is subject to Indonesian National Laws and Regulations.

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**STATEMENT BY THE REPRESENTATIVE OF THE PARTY OF TURKEY**

Turkey supported the provisional application of the amendments to the Convention from 7 March 2007, although Turkey has considerations regarding its domestic legislative process. The procedures associated with this consideration shall be within the limits of the national laws and legislative procedures.

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